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Senate Bill No. 294

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY SENATORS COLE (MR. PRESIDENT) AND KESSLER,
BY REQUEST OF THE EXECUTIVE)

[Passed March 3, 2015; in effect ninety days from passage.]

AN ACT to repeal §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code; to amend and reenact §15-5-28 of said code; to amend and reenact §18A-3-2c of said code; and to amend and reenact §33-16D-16 of said code, all relating to eliminating unnecessary, inactive or redundant councils, committees and boards; terminating the Council for Community and Economic Development and transferring powers and duties to the Executive Director of the West Virginia Development Office; terminating the Statewide Intrastate Mutual Aid Committee and making technical corrections to the code to reference a state of preparedness; terminating the Principals Standards Advisory Council; and terminating the West Virginia Health Insurance Plan Board.

Be it enacted by the Legislature of West Virginia:

That §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended, be repealed; that §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code be amended and reenacted; that §15-5-28 of said code be amended and reenacted; that §18A-3-2c of said code

be amended and reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-2. Appointment and compensation of the Executive Director of the West Virginia Development Office.

1 (a) The Governor shall appoint the Executive Director of
2 the West Virginia Development Office who is qualified for
3 the position by reason of his or her extensive education and
4 experience in the field of professional economic
5 development. The executive director serves at the will and
6 pleasure of the Governor.. The executive director shall have
7 overall management responsibility and administrative control
8 and supervision within the West Virginia Development
9 Office. It is the intention of the Legislature that the executive
10 director provide professional and technical expertise in the
11 field of professional economic and tourism development.
12 Subject to the provisions of the contract provided in section
13 four of this article, the executive director may hire and fire
14 economic development representatives employed pursuant to
15 the provisions of section five of this article.

16 (b) The Executive Director of the West Virginia
17 Development Office may promulgate rules to carry out the
18 purposes and programs of the West Virginia Development
19 Office to include generally the programs available and the
20 procedure and eligibility of applications relating to assistance
21 under the programs. These rules are not subject to the
22 provisions of chapter twenty-nine-a of this code, but shall be
23 filed with the Secretary of State. The executive director may
24 adopt any of the rules previously promulgated by the council
25 for community and economic development.

§5B-2-3. Powers and duties of the executive director.

1 The executive director shall enhance economic growth
2 and development through the development of a
3 comprehensive economic development strategy for West
4 Virginia. "Comprehensive economic development strategy"
5 means a plan that outlines strategies and activities designed
6 to continue, diversify or expand the economic base of the
7 state as a whole; create jobs; develop a highly skilled
8 workforce; facilitate business access to capital, including
9 venture capital; advertise and market the resources offered by
10 the state with respect to the needs of business and industry;
11 facilitate cooperation among local, regional and private
12 economic development enterprises; improve infrastructure on
13 a state, regional and community level; improve the business
14 climate generally; and leverage funding from sources other
15 than the state, including federal and private sources.

§5B-2-4. Public-private partnerships.

1 The West Virginia Development Office is authorized to
2 enter into contractual or joint venture agreements with a
3 nonprofit corporation organized pursuant to the corporate
4 laws of the state, organized to permit qualification pursuant
5 to section 501(c) of the Internal Revenue Code and for
6 purposes of the economic development of West Virginia, and
7 funded from sources other than the state. The contract shall
8 include provisions relating to the employment of economic
9 development representatives assigned to the West Virginia
10 Development Office to be paid a base salary by the state and
11 performance-based economic incentives from private funds
12 of the nonprofit corporation. Provisions relating to hiring
13 practices with respect to economic development
14 representatives, job descriptions, accountability,
15 public-private liaison and performance standards may be the
16 subject of contract negotiations. The contract shall include

17 provision for continuing education and certification in the
18 field of economic or industrial development for persons
19 employed as economic development representatives.
20 Agreements providing for the payment of performance-based
21 incentives to the Executive Director of the West Virginia
22 Development Office are authorized. Agreements providing
23 for the payment of travel and expenses to the Executive
24 Director of the West Virginia Development Office or to
25 economic development representatives from private funds by
26 the nonprofit corporation are authorized. The prohibitions of
27 subdivisions (b) and (d), section five, article two, chapter
28 six-b of this code are not applicable to the receipt by
29 economic development representatives or by the executive
30 director of performance-based incentives and other payments
31 made by the nonprofit corporation and specifically authorized
32 pursuant to this section.

33 From time to time the executive director may enter into
34 joint ventures wherein the West Virginia Development Office
35 and the nonprofit corporation share in the development and
36 funding of economic development programs.

37 All contracts and joint venture agreements must be
38 approved by the executive director. Contracts entered into
39 pursuant to this section for longer than one fiscal year shall
40 contain, in substance, a provision that the contract shall be
41 considered cancelled without further obligation on the part of
42 the state if the State Legislature or, where appropriate, the
43 federal government, shall fail to appropriate sufficient funds
44 therefor or shall act to impair the contract or cause it to be
45 cancelled.

§5B-2-5. Economic development representatives.

1 (a) The executive director may employ economic
2 development representatives to be paid a base salary within

3 legislative appropriations to the West Virginia Development
4 Office, subject to applicable contract provisions pursuant to
5 section four of this article. Economic development
6 representatives may receive performance-based incentives
7 and expenses paid from private funds from a nonprofit
8 corporation contracting with the West Virginia Development
9 Office pursuant to the provisions of section four of this
10 article. The executive director shall establish job descriptions
11 and responsibilities of economic development
12 representatives, subject to the provisions of any contract with
13 a nonprofit corporation entered into pursuant to section four
14 of this article.

15 (b) Notwithstanding any provision of this code to the
16 contrary, economic development representatives employed
17 within the West Virginia Development Office are not subject
18 to the procedures and protections provided by articles six and
19 six-a, chapter twenty-nine of this code. Any employee of the
20 West Virginia Development Office on the effective date of
21 this article who applies for employment as an economic
22 development representative is not entitled to the protections
23 of article six, chapter twenty-nine with respect to hiring
24 procedures and qualifications; and upon accepting
25 employment as an economic development representative, the
26 employee relinquishes the protections provided for in article
27 two, chapter six-c and article six, chapter twenty-nine of this
28 code.

§5B-2-6. Transition; savings provision.

1 All programs, orders, determinations, rules, permits,
2 grants, contracts, certificates, bonds, authorizations and
3 privileges which have been issued, made, granted or allowed
4 to become effective pursuant to any prior enactments of this
5 article or by the Governor, the Governor's Office of
6 Community and Industrial Development or its director, or by

7 a court of competent jurisdiction, and which are in effect on
8 February 1, 1992, shall continue in effect according to their
9 terms until modified, terminated, superseded, set aside or
10 revoked by the Governor or the Executive Director of the
11 West Virginia Development Office pursuant to this article, by
12 a court of competent jurisdiction or by operation of law.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-28. Statewide mutual aid system.

1 (a) The Legislature hereby finds that emergencies transcend
2 political jurisdictional boundaries and that intergovernmental
3 coordination is essential for the protection of lives and property
4 and for the best use of available assets, both public and private.
5 The purpose of this section is to create a system of intrastate
6 mutual aid between participating political subdivisions in the
7 state. The system shall provide for mutual assistance among the
8 participating political subdivisions in the prevention of,
9 response to and recovery from any disaster that results in a
10 formal state of emergency or state of preparedness in a
11 participating political subdivision, subject to that participating
12 political subdivision's criteria for declaration. The system shall
13 provide for mutual cooperation among the participating
14 subdivisions in conducting disaster-related exercises, testing or
15 other training activities outside actual declared emergency
16 periods. This section provides no immunity, rights or
17 privileges for any individual responding to a state of emergency
18 or state of preparedness that is not requested or authorized to
19 respond by a participating political subdivision. Participating
20 political subdivisions will be ensured, to the fullest extent
21 possible, eligibility for state and federal disaster funding.

22 (b) Upon the enactment of this legislation, all political
23 subdivisions within the state are members of the statewide
24 mutual aid system: *Provided*, That a political subdivision
25 within the state may elect not to participate or to withdraw
26 from the system upon the enactment of an appropriate
27 resolution by its governing body declaring that it elects not to
28 participate in the statewide mutual aid system. A copy of any
29 such resolution shall be provided to the Division of
30 Homeland Security and Emergency Management.

31 (c) This section does not preclude participating political
32 subdivisions from entering into supplementary agreements
33 with another political subdivision and does not affect any
34 other agreement to which a political subdivision may
35 currently be a party to, or decide to be a party to.

36 (d) "Emergency responder", as used in this article, shall
37 mean anyone with special skills, qualifications, training,
38 knowledge and experience in the public or private sectors that
39 would be beneficial to a participating political subdivision in
40 response to a locally declared emergency as defined in any
41 applicable law or ordinance or authorized drill or exercises;
42 and who is requested and authorized to respond. Under this
43 definition, an emergency responder may be required to
44 possess a license, certificate, permit or other official
45 recognition for his or her expertise in a particular field or area
46 of knowledge. An emergency responder could include, but
47 is in no way limited to, the following: Law-enforcement
48 officers, firefighters, emergency medical services personnel,
49 physicians, nurses, other public health personnel, emergency
50 management personnel, public works personnel, local
51 emergency debris removal teams, those persons with
52 specialized equipment operations skills or training or any
53 other skills needed to provide aid in a declared emergency.

54 (e) It shall be the responsibility of each participating
55 political subdivision with jurisdiction over and responsibility
56 for emergency management within that certain subdivision to
57 do all of the following:

58 (1) Identify potential hazards that could affect the
59 participant using an identification system common to all
60 participating jurisdictions.

61 (2) Conduct joint planning, intelligence sharing and threat
62 assessment development with contiguous participating
63 political subdivisions and conduct joint training at least
64 biennially.

65 (3) Identify and inventory the current services,
66 equipment, supplies, personnel and other resources related to
67 planning, prevention, mitigation, response and recovery
68 activities of the participating political subdivision.

69 (4) Adopt and implement the National Incident
70 Management System approved by the State of West Virginia.

71 (f) A participating political subdivision may request
72 assistance of other participating political subdivisions in
73 preventing, mitigating, responding to and recovering from
74 disasters that result in locally declared emergencies or in
75 concert with authorized drills or exercises as allowed under
76 this section. Requests for assistance shall be made to the
77 Division of Homeland Security and Emergency Management
78 through the designated county emergency management
79 director by the chief executive officer of a participating
80 political subdivision, or his or her designee, for response.
81 Requests may be verbal or in writing. Verbal requests will be
82 followed up with a written request as soon as is practical or
83 such number of days as the state, in its discretion, may
84 dictate.

85 (g) The obligation of a participating political subdivision
86 to provide assistance in the prevention of, response to and
87 recovery from a locally declared emergency or in authorized
88 drills or exercises is subject to the following conditions:

89 (1) A participating political subdivision requesting
90 assistance must have either declared a state of emergency in
91 the manner outlined in this section or authorized drills and
92 exercises;

93 (2) A responding participating political subdivision may
94 withhold resources to the extent necessary to provide
95 reasonable protection and services for its own jurisdiction;

96 (3) Emergency response personnel of a responding
97 participating political subdivision shall continue under the
98 command and control of their responding jurisdiction to
99 include medical protocols, standard operating procedures and
100 other protocols, but shall be under the operational control of
101 the appropriate officials within the National Incident
102 Management System of the participating political subdivision
103 receiving the assistance; and

104 (4) Assets and equipment of a responding participating
105 political subdivision shall continue under the control of the
106 responding jurisdiction, but shall be under the operational
107 control of the appropriate officials within the National
108 Incident Management System of the participating political
109 subdivision receiving the assistance.

110 (h) If a person or entity holds a license, certificate or
111 other permit issued by a participating political subdivision or
112 the state evidencing qualification in a professional,
113 mechanical or other skill and the assistance of that person or
114 entity is requested by a participating political subdivision, the
115 person or entity shall be deemed to be licensed, certified or

116 permitted in the political subdivision requesting assistance for
117 the duration of the declared emergency or authorized drills or
118 exercises and subject to any limitations and conditions the
119 chief executive of the participating political subdivision
120 receiving the assistance may prescribe by executive order or
121 otherwise.

122 (i) (1) Any requesting political subdivision shall
123 reimburse the participating political subdivision rendering aid
124 under this system provided the request for aid is authorized
125 by the Division of Homeland Security and Emergency
126 Management. A participating political subdivision providing
127 assistance may determine to donate assets of any kind to a
128 receiving participating political subdivision.

129 (2) Should a dispute arise between parties to the system
130 regarding reimbursement, involved parties will make every
131 effort to resolve the dispute within thirty days of written
132 notice of the dispute by the party asserting noncompliance.
133 In the event that the dispute is not resolved within ninety days
134 of the notice of the claim, either party may request the dispute
135 be solved through arbitration. Any arbitration under this
136 provision shall be conducted under the commercial
137 arbitration rules of the American Arbitration Association.

138 (j) Personnel of a participating political subdivision
139 responding to or rendering assistance for a request who
140 sustain injury or death in the course of, and arising out of,
141 their employment are entitled to all applicable benefits
142 normally available to personnel while performing their duties
143 for their employer. Responders shall receive any additional
144 state and federal benefits that may be available to them for
145 line-of-duty deaths.

146 (k) All activities performed under this section are deemed
147 hereby to be governmental functions. For the purposes of

148 liability, all persons responding under the operational control of
 149 the requesting political subdivision are deemed to be employees
 150 of the requesting participating political subdivision.

151 (l) Whenever the law-enforcement officials of any political
 152 subdivision are rendering outside aid pursuant their lawful
 153 authority, and with the approval of the Director of the West
 154 Virginia Division of Homeland Security and Emergency
 155 Management, and under the authority of a state of emergency
 156 or state of preparedness as officially proclaimed by the
 157 Governor, such law-enforcement officials shall have the same
 158 authority, powers, duties, rights, privileges and immunities as
 159 if they were performing their law-enforcement duties in the
 160 political subdivisions in which they are normally employed.
 161 The authority vested in the law-enforcement official, in
 162 accordance with this section, shall vest upon reporting in person
 163 to the Emergency Management Agency official in charge and
 164 on duty at the county or city of destination assignment. The
 165 law-enforcement official shall act under the authority,
 166 supervision and control of the highest ranking law-enforcement
 167 official within the assigned outside jurisdiction. Law
 168 enforcement and powers of arrest authority will not attach to the
 169 law-enforcement official while in transit from his or her
 170 jurisdiction of origin en route to his or her assigned jurisdiction
 171 under intrastate mutual aid assistance.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-2c. Training through the principals academy.

1 (a) *Principal training and professional development*
 2 *required.* – After the effective date of this section and subject
 3 to the provisions of subsection (c) of this section, every

4 principal shall complete training and professional
5 development through the principals academy as provided in
6 subsection (b) of this section.

7 (b) *Principal training and professional development*
8 *through the academy.* – The academy and the persons
9 required to complete training and professional development
10 through the academy shall adhere to the following guidelines:

11 (1) All persons assigned as a principal for the first time in
12 a West Virginia school after July 1, 2002, shall complete
13 specialized training and professional development for newly
14 appointed principals through the academy within the first
15 twelve months following assignment;

16 (2) All principals of schools which have been designated
17 as seriously impaired, in accordance with section five, article
18 two-e, chapter eighteen of this code, shall complete
19 specialized training and professional development through
20 the academy specifically designed to assist the principal to
21 improve school performance commencing as soon as
22 practicable following receipt of the designation;

23 (3) All principals who are subject to an improvement
24 plan, in accordance with section twelve, article two of this
25 chapter, shall complete specialized training and professional
26 development through the academy specifically designed for
27 principals subject to an improvement plan. The specialized
28 training and professional development shall be completed
29 within twelve months from the date that the principal is first
30 subject to the improvement plan;

31 (4) All principals who transfer to a school with a
32 significantly different grade configuration shall complete
33 specialized training and professional development for

34 principals in schools with the grade configuration to which
35 they transferred through the academy within the first twelve
36 months following transfer; and

37 (5) All persons serving as school principals shall
38 complete training and professional development through the
39 academy designed to build the qualities, proficiencies and
40 skills required of all principals as determined by the state
41 board.

42 (c) *Academy and requirements to complete training and*
43 *professional development subject to funding.* – The
44 requirement that principals complete training and
45 professional development through the academy shall be
46 subject to the availability of funds for the principals academy
47 from legislative appropriation and from other sources. If
48 these funds are insufficient to provide for the total cost of the
49 training and professional development required by subsection
50 (b) of this section, then the academy shall provide training
51 and professional development for the persons described in
52 subdivisions (1) through (5), inclusive, subsection (b) of this
53 section according to the priority in which the subdivisions
54 appear in said subsection. If such funds are insufficient to
55 provide for the training and professional development of all
56 the persons described in one or more of subdivisions (1)
57 through (5), inclusive, subsection (b) of this section, the
58 academy is authorized to determine which persons described
59 within the subdivision or subdivisions shall be admitted and
60 which shall not be admitted: *Provided*, That the principals
61 academy shall make every effort to ensure that all principals
62 receive training and professional development through the
63 academy at least once every six years effective July 1, 2002,
64 and thereafter: *Provided, however*, That nothing in this
65 section shall be construed to require any specific level of
66 funding by the Legislature.

67 (d) *Establishment of standards.* – On or before October
68 1, 1996, the state board shall approve and promulgate rules
69 regarding the minimum qualities, proficiencies and skills that
70 will be required of principals after January 1, 1997. The state
71 board shall promulgate and may, from time to time, amend
72 such rules. The rules promulgated by the state board shall
73 address at least the following:

74 (1) Staff relations, including, but not limited to, the
75 development and use of skills necessary to make a positive
76 use of faculty senates, manage faculty and staff with courtesy
77 and mutual respect, coach and motivate employees, and build
78 consensus as a means of management;

79 (2) School community leadership qualities, including, but
80 not limited to, the ability to organize and leverage community
81 initiative, communicate effectively, work effectively with
82 local school improvement councils, manage change, resolve
83 conflict and reflect the highest personal values;

84 (3) Educational proficiencies, including, but not limited
85 to, knowledge of curriculum, instructional techniques, student
86 learning styles, student assessment criteria, school personnel
87 performance, evaluation skills and family issues; and

88 (4) Administrative skills, including, but not limited to,
89 organizational, fiscal, public policy and total quality
90 management skills and techniques.

91 (e) *Waivers.* – Any person desiring to be relieved of the
92 requirements of all or any part of this section may apply in
93 writing to the state board for a waiver. Upon a showing of
94 reasonable cause why relief should be granted, the state board
95 may grant a waiver, upon such terms and conditions as the
96 state board shall determine proper, as to all or any part of this
97 section.

98 (f) *Failure to comply.* – Any person who fails or refuses
99 to complete training and professional development through
100 the academy, as required by the provisions of this section,
101 and who fails to obtain a waiver, as described in
102 subsection(e) of this section, shall be ineligible to be
103 employed as, or serve in the capacity of, a principal.

104 (g) *Tracking of requirement.* – On or before January 1,
105 1997, the state board shall establish a system to track the
106 progress of each person required to complete training through
107 the academy and shall regularly advise such persons of their
108 progress.

109 (h) *Payment of reasonable and necessary expenses and*
110 *stipends.* – The center for professional development shall
111 reimburse persons attending the academy for reasonable and
112 necessary expenses. A person may not be required to
113 complete training and professional development through the
114 principals academy before September 15, and after June 1, of
115 the school year. The center for professional development
116 shall utilize alternative methods of instructional delivery and
117 scheduling, including electronic delivery, as considered
118 appropriate to minimize the amount of time principals
119 completing training and professional development through
120 the academy are required to be away from their school duties.
121 Nothing in this section shall be construed to require any
122 specific level of funding by the Legislature.

CHAPTER 33. INSURANCE.

ARTICLE 16D. MARKETING AND RATE PRACTICES.

§33-16D-16. Authorization of uninsured small group health benefit plans.

1 (a) Upon filing with and approval by the commissioner,
2 any carrier licensed pursuant to this chapter which accesses

3 a health care provider network to deliver services may offer
4 a health benefit plan and rates associated with the plan to a
5 small employer subject to the conditions of this section and
6 subject to the provisions of this article. The health benefit
7 plan is subject to the following conditions:

8 (1) The health benefit plan may be offered by the carrier
9 only to small employers which have not had a health benefit
10 plan covering their employees for at least six consecutive
11 months before the effective date of this section. After the
12 passage of six months from the effective date of this section, the
13 health benefit plan under this section may be offered by carriers
14 only to small employers which have not had a health benefit
15 plan covering their employees for twelve consecutive months;

16 (2) If a small employer covered by a health benefit plan
17 offered pursuant to this section no longer meets the definition
18 of a small employer as a result of an increase in eligible
19 employees, that employer shall remain covered by the health
20 benefit plan until the next annual renewal date;

21 (3) The small employer shall pay at least fifty percent of
22 its employees' premium amount for individual employee
23 coverage;

24 (4) The commissioner shall promulgate emergency rules
25 under the provisions of article three, chapter twenty-nine-a of
26 this code on or before September 1, 2004, to place additional
27 restrictions upon the eligibility requirements for health
28 benefit plans authorized by this section in order to prevent
29 manipulation of eligibility criteria by small employers and
30 otherwise implement the provisions of this section;

31 (5) Carriers must offer the health benefit plans issued
32 pursuant to this section through one of their existing networks
33 of health care providers;

34 (A) The West Virginia Health Care Authority shall, on or
35 before May 1, 2004, and each year thereafter, by regular
36 mail, provide a written notice to all known in-state health
37 care providers that:

38 (i) Informs the health care provider regarding the
39 provisions of this section; and

40 (ii) Notifies the health care provider that if the health
41 care provider does not give written refusal to the West
42 Virginia Health Care Authority within thirty days from
43 receipt of the notice or the health care provider has not
44 previously filed a written notice of refusal to participate, the
45 health care provider must participate with and accept the
46 products and provider reimbursements authorized pursuant
47 to this section;

48 (B) The carrier's network of health care providers, as
49 well as any health care provider which provides health care
50 goods or services to beneficiaries of any departments or
51 divisions of the state, as identified in article twenty-nine-d,
52 chapter sixteen of this code, shall accept the health care
53 provider reimbursement rates set pursuant to this section
54 unless the health care provider gives written refusal to the
55 West Virginia Health Care Authority between May 1 and
56 June 1 that the provider will not participate in this program
57 for the next calendar year. Notwithstanding any provision of
58 this code to the contrary, health care providers may not be
59 mandated to participate in this program except under the
60 opt-out provisions of subdivision (5), subsection (a) of this
61 section and therefore the health care provider shall annually
62 have the ability to file with the West Virginia Health Care
63 Authority written notice that the health care provider will not
64 participate with products issued pursuant to this section.
65 Once a health care provider has filed a notice of refusal with
66 the West Virginia Health Care Authority, the notice shall

67 remain effective until rescinded by the provider and the
68 provider shall not be required to renew the notice each year;

69 (C) The West Virginia Health Care Authority is
70 responsible for receiving the responses, if any, from the
71 health care providers that have elected not to participate and
72 for providing a list to the commissioner of those health care
73 providers that have elected not to participate;

74 (D) Those health care providers that do not file a notice
75 of refusal shall be considered to have accepted participation
76 in this program and to accept Public Employees Insurance
77 Agency health care provider reimbursement rates for their
78 services as set by this section;

79 (E) Health care provider reimbursement rates used by the
80 carrier for a health benefit plan offered pursuant to this
81 section shall have no effect on provider rates for other
82 products offered by the carrier and most-favored-nation
83 clauses do not apply to the rates;

84 (6) With respect to the health benefit plans authorized by
85 this section, the carrier shall reimburse network health care
86 providers at the same health care provider reimbursement
87 rates in effect for the managed care and health maintenance
88 organization plans offered by the West Virginia Public
89 Employees Insurance Agency. Beginning in the year 2004,
90 and in each year thereafter, the health care provider
91 reimbursement rates set under this section may not be
92 lowered from the level of the rates in effect on July 1 of that
93 year for the managed care and health maintenance plans
94 offered by the Public Employees Insurance Agency. While
95 it is the intent of this paragraph to govern rates for plans
96 offered pursuant to this section for annual periods, this
97 subdivision in no way prevents the Public Employees
98 Insurance Agency from making provider reimbursement rate

99 adjustments to Public Employees Insurance Agency plans
100 during the course of each year. If there is a dispute regarding
101 the determination of appropriate rates pursuant to this section,
102 the Director of the Public Employees Insurance Agency shall,
103 in his or her sole discretion, specify the appropriate rate to be
104 applied;

105 (A) The health care provider reimbursement rates as
106 authorized by this section shall be accepted by the health care
107 provider as payment in full for services or products provided
108 to a person covered by a product authorized by this section;

109 (B) Except for the health care provider rates authorized
110 under this section, a carrier's payment methodology,
111 including copayments and deductibles and other conditions
112 of coverage, remains unaffected by this section;

113 (C) The provisions of this section do not require the
114 Public Employees Insurance Agency to give carriers access
115 to the purchasing networks of the Public Employees
116 Insurance Agency. The Public Employees Insurance Agency
117 may enter into agreements with carriers offering health
118 benefit plans under this section to permit the carrier, at its
119 election, to participate in drug purchasing arrangements
120 pursuant to article sixteen-c, chapter five of this code,
121 including the multistate drug purchasing program. This
122 paragraph provides authorization of the agreements pursuant
123 to section four of said article;

124 (7) Carriers may not underwrite products authorized by
125 this section more strictly than other small group policies
126 governed by this article;

127 (8) With respect to health benefit plans authorized by this
128 section, a carrier shall have a minimum anticipated loss ratio
129 of seventy-seven percent to be eligible to make a rate increase

130 request after the first year of providing a health benefit plan
131 under this section;

132 (9) Products authorized under this section are exempt
133 from the premium taxes assessed under sections fourteen and
134 fourteen-a, article three of this chapter;

135 (10) A carrier may elect to nonrenew any health benefit
136 plan to an eligible employer if, at any time, the carrier
137 determines, by applying the same network criteria which it
138 applies to other small employer health benefit plans, that it no
139 longer has an adequate network of health care providers
140 accessible for that eligible small employer. If the carrier
141 makes a determination that an adequate network does not
142 exist, the carrier has no obligation to obtain additional health
143 care providers to establish an adequate network;

144 (11) Upon thirty days' advance notice to the
145 commissioner, a carrier may, at any time, elect to nonrenew
146 all health benefit plans issued pursuant to this section. If a
147 carrier nonrenews all its business issued pursuant to this
148 section for any reason other than the adequacy of the provider
149 network, the carrier may not offer this health benefit plan to
150 any eligible small employer for a period of at least two years
151 after the last eligible small employer is nonrenewed; and

152 (12) The Insurance Commissioner may not approve any
153 health benefit plan issued pursuant to this section until it has
154 obtained any necessary federal governmental authorizations
155 or waivers. The Insurance Commissioner shall apply for and
156 obtain all necessary federal authorizations or waivers.

157 (b) Health benefit plans authorized by this section are not
158 intended to violate the prohibition set out in subsection (a),
159 section four of this article.

160 (c) Carriers offering health benefit plans pursuant to this
161 section shall annually or before December 1 of each year
162 report in a form acceptable to the commissioner the number
163 of health benefit plans written by the carrier and the number
164 of individuals covered under the health benefit plans.

165 (d) To the extent that provisions of this section differ
166 from those contained elsewhere in this chapter, the provisions
167 of this section control.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark T. Raymond
.....
Chairman Senate Committee

Jim B. McJannet
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark Barnes
.....
Clerk of the Senate

Steph J. Harris
.....
Clerk of the House of Delegates

Phillip P. White
.....
President of the Senate

Jeff Colyer
.....
Speaker of the House of Delegates

The within *is* approved..... this the *11th*.....

Day of *March*....., 2015.

Carl Roy Smith
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 10 2015

Time 3:13 PM